

**REMARKS/ARGUMENTS**

Applicant appreciates the Examiner's review of the above-identified patent application and respectfully requests reconsideration and allowance in view of the above amendments and following remarks. With this amendment, claims 3, 4, 7, 8, 15, 16 and 19-44 remain in this application. Claims 10-13 are canceled. Claims 3, 7, 8, 23, 24, 31, 32, and 39- 42 are currently amended.

The Examiner has required corrected drawings. As per the Examiner's request, enclosed herein are five (5) replacement sheets of corrected drawings (FIGS. 5, 5A, 5B, 6, and 7) which were approved by the Examiner in the response filed on June 13 2003. Each page of the enclosed set of replacement sheets has been labeled "REPLACEMENT SHEET" in compliance with the current amendment format. Applicant submits that no new matter has been added.

The Examiner has objected to the substituted specification filed in response to the previous office action dated October 29, 2002. In particular, the Examiner states that the substitute specification, and in particular lines 7-11 of paragraph [0043], contains new matter and has not been entered. With the present amendment, Applicant has amended paragraph [0043]. Applicant

submits that this amendment is supported by at least originally filed paragraph [0043], in paragraph [0020] and in Figure 5A and 5B. More specifically, currently amended paragraph [0043] does not contain references to the symmetrical and asymmetrical features of the cams. Applicant has also amended paragraph [0042] to correct an element numeral inversion. Applicant submits that the present amendments do not add any new matter.

Claims 7, 8, 23, 24, 31, 32 and 40 have been objected to because of some textual informalities. The applicant submits that currently amended claims 7, 8, 23, 24, 31, 32 and 40 now incorporate corrections to the textual informalities and that the objection has been overcome. The examiner has also objected to claims 10-13 because they depend from a cancelled claim and are drawn to a non-elected specie. With this amendment, Applicant has cancelled claims 10-13 without prejudice as per the examiner's recommendation but wishes to retain the right to file them in a divisional application.

The Examiner has rejected claims 25, 26, 29, 30, 33, 34, 37 and 38 under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. With this amendment, Applicant has amended claims 25, 26, 33 and 34 and cancelled claims 29, 30, 37

and 38. Applicant respectfully submits that the currently amended claims 25, 26, 33 and 34 now comply with the enablement requirement. Support for these amended claims can be found in at least the currently amended paragraph [0043] which finds support in the originally filed paragraph [0043], in originally filed paragraph [0020], and in Figure 5A and 5B. Accordingly, the rejection under 35 U.S.C. § 112, first paragraph, has been overcome.

Claims 3, 4, 7, 8, 21-30 and 39-44 have been rejected under 35 USC § 112, second paragraph, as being indefinite. Applicant respectfully submits that the currently amended claims 3, 39 and 43 and their dependant claims now incorporate terms with antecedent basis. More particularly, the reference to "the heel holding means" in claim 3 has been deleted. Also, the limitation regarding "said ski" in claim 39 now has antecedent support in the currently amended claim 39. Finally, currently amended claim 39 now incorporates a correction to the typographical error (the expression "the toe holding surface" now replaces the expression "the heel holding surface"). Accordingly, the rejection under 35 U.S.C. § 112, second paragraph, has been overcome.

Claim 39 has been rejected under 35 U.S.C. § 102(b) as being

anticipated by Korger (U.S. Patent No. 3,937,480). Applicant respectfully traverses this rejection.

In paragraph 12 of the present Office Action, the Examiner has acknowledges that Korger does not disclose the toe holding means being pivotally connected to the top plate. Amendment claim 39 recites, in part, "toe holding means pivotally mounted on said top plate." Support for this amendment can be found in at least Figures 5 and 7 and in paragraph [0045], where it is stated that "the toe cup 140 and the heel cup 150 are pivoted in a clockwise direction about connecting means 142 and 152, thereby releasing the boot." Accordingly, Applicant respectfully submits that Korger does not disclose or suggest all of the element recited in amended independent claim 39 and that claim 39 is in condition for allowance.

Claim 43 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Perryman (U.S. Patent No. 3,764,155). Applicant respectfully traverses this rejection.

Referring to FIG. 2 of Perryman, the second pivot means pivotally attaches the toe holding means (45 "yoke" or 32 "turret") to the base plate (30) which is rigidly secured to the ski (11), as illustrated in Figure 2. The second pivot does not

pivotally attach the toe holding means to the plate (12), but to the ski (11) via the base plate (30).

In contrast, amended claim 43 recites, in relevant part, that "second pivot means to pivotally attach said toe holding means to said plate". As can be seen in figure 5, the toe cup (140) and the toe pad (145) are connected to the top plate (130) via the fastening means (142) and that the connecting means (144) hold the toe cup (140) to the base plate (120). In the specification, it is stated that: "the fastening means 142 and 152 by which the heel pad 155 and the toe pad 145 are connected to the top plate 130. It is through these that the torsional force on the boot is transferred to the top plate 130." Therefore, Applicant respectfully submits that the second pivot means recited in claim 43 pivotally attaches the toe holding means on the plate, and not directly to the ski as disclosed in Perryman. Accordingly, Applicant submits that the rejection of claim 43 should be withdrawn and that claim 43 is in condition for allowance.

Claims 3, 4, 7, 8, 15, 16, 19, 20, 23, 24, 31 and 32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Korger in view of Perryman. Applicant respectfully traverses this rejection.

In regards to claim 3 and 15, the Examiner has stated that Korger does not disclose the toe holding means being pivotally connected to the top plate. Also, the Examiner has stated that Perryman teaches a binding comprising toe holding means (#45) pivotally connected on the plate (#12).

As discussed above, Applicant submits that Perryman's toe holding means (45 "yoke" or 32 "turret") is not pivotally connected to the plate (12), but on or cooperates with the plate (12) via its notch (33) which engages the tooth (23) of the plate (12). Consequently, the toe holding means (45 "yoke" or 32 "turret") is pivotally connected to the ski (11) via the base plate (30). The release action of the toe holding means (45 "yoke" or 32 "turret") and the plate (12) pivotally releases the plate (12) with the boot on it. In contrast, amended claims 3 and 15 recite that the toe holding means is "pivotally connected to the top plate" (claim 3) and "translatably connected to the top plate" (claim 15). (See also Figure 5.)

Additionally, paragraph [0042] of the present specification discloses that "These figures [Figures 5, 5A, 5B, and 6] also show the fastening means 142 and 152 by which the heel pad 145 and the toe pad 155 are connected to the top plate 130. It is through

these that the torsional force on the boot is transferred to the top plate 130. Also shown are the connecting means 144 and 154 which hold the toe cup 140 and the heel cup 150 to the base plate. It is through these two different connections that the toe cup 140 and the heel cup 150 are caused to pivot or translate during release."

Therefore, Applicant respectfully submits that claim 3 and 15 recite patentable subject matter which is not obvious to one skilled in the art at the time of the invention. Furthermore, since claims 4, 7, 8, 16, 19, 20, 23, 24, 31 and 32 depend upon patentable subject matter based on the hereinabove discussion, Applicant also believes that they represent patentable subject matter.

Claims 21 and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Korger in view of Perryman and further in view of Horn. Applicant respectfully traverses this rejection.

Claim 21 is dependant upon claim 3 and claim 22 is dependant upon claim 21. Applicant respectfully submits that Horn does not disclose or suggest the elements missing from the combination of Korger and Perryman as discussed above. Accordingly, Applicant respectfully submits that the rejection of claims 21 and 22 is

improper and should be withdrawn.

Claim 44 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Perryman in view of Horn. Applicant respectfully traverses this rejection.

Amended claim 44 is dependant upon claim 43. For the reasons discussed above, Applicant respectfully submits that Perryman does not disclose or suggest all of the element recited in claim 43. Moreover, Applicant submits that Horn does not disclose or suggest the element missing from Perryman, i.e., that the second pivot means in Perryman pivotally attaches the toe holding means to the plate (12), but rather to the ski (11) via the base plate (30). Accordingly, Applicant respectfully submits that the rejection of claim 44 is improper and should be withdrawn.

Since Applicant's amendments clearly place the claims into condition for allowance, and do not require any further consideration and/or search, Applicant requests that the above amendments be entered after final pursuant to 37 C.F.R. § 1.116. All pending claims are now in condition for allowance. Early and favorable action is respectfully requested.

The Examiner is invited to telephone the undersigned, Applicant's Attorney of Record, to facilitate advancement of the



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present application.

Respectfully submitted,

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